

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

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Barclays Bank Delaware

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Ramon Gutierrez and Clariza Gutierrez, on behalf
of themselves and all others similarly situated

Plaintiffs

vs.

Barclays Bank Delaware,

Defendants.

Case No.: 11-CV-0289 LAB WMc

CLASS ACTION

**DEFENDANT BARCLAYS BANK
DELAWARE'S NOTICE OF MOTION
AND MOTION TO COMPEL INDIVIDUAL
ARBITRATION AND TO STAY ACTION**

Date: August 22, 2011
Time: 11:15 a.m.
Courtroom: 9

Honorable Larry Alan Burns

[Filed Concurrently with Memorandum of
Points and Authorities; Declaration of John
Graser and Declaration of Jordan Yu]

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT on August 22, 2011, at 11:15 a.m., in Courtroom 9 of the
3 above-entitled Court, located at 940 Front Street, San Diego, California 92101, Defendant Barclays
4 Bank Delaware ("Barclays") will, and hereby does, move the Court for an order compelling
5 Plaintiffs Ramon Gutierrez and Clariza Gutierrez ("Plaintiffs") to submit their claims to binding
6 individual arbitration and for an order staying this action pending arbitration.

7 The Motion is made pursuant to the Federal Arbitration Act ("FAA"), 9 U.S.C. § 1 *et seq.*
8 The Credit Card Cardmember Agreement governing the credit card account at issue in this action
9 includes an arbitration provision mandating Plaintiffs to submit their claims to binding arbitration on
10 an individual basis. Moreover, pursuant to 9 U.S.C. § 3 of the FAA, Barclays moves to stay this
11 action pending completion of the arbitration of this matter.

12 The Motion is based on this Notice, the accompanying Memorandum of Points and
13 Authorities, the Declarations of John Graser and Jordan Yu, all the records and documents on file in
14 this matter, and any oral or documentary evidence the Court deems proper.

15 DATED: June 13, 2011

16 REED SMITH LLP

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18 By s/ Jordan Yu
19 Jordan Yu
20 jsyu@reedsmith.com
21 Attorneys for Defendants
22 Barclays bank Delaware
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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is REED SMITH LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071-1514. On June 13, 2011, I served the following document(s) by the method indicated below:

1. **DEFENDANT BARCLAYS BANK DELAWARE'S NOTICE OF MOTION AND MOTION TO COMPEL INDIVIDUAL ARBITRATION AND TO STAY ACTION;**
2. **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT BARCLAYS BANK DELAWARE'S MOTION TO COMPEL INDIVIDUAL ARBITRATION AND TO STAY ACTION;**
3. **DECLARATION OF JORDAN YU IN SUPPORT OF DEFENDANT BARCLAYS BANK DELAWARE'S MOTION TO COMPEL INDIVIDUAL ARBITRATION AND TO STAY ACTION**
4. **DECLARATION OF JOHN GRASER IN SUPPORT OF DEFENDANT BARCLAYS BANK DELAWARE'S MOTION TO COMPEL INDIVIDUAL ARBITRATION AND TO STAY ACTION**

☒ BY CM/ECF ELECTRONIC DELIVERY: In accordance with the registered case participants and in accordance with the procedures set forth at the Court's website www.ecf.casd.uscourts.gov

☐ by transmitting via facsimile on this date from fax number +1 213 457 8080 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 PM and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing.

☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.

☐ by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below. A signed proof of service by the process server or delivery service will be filed shortly.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

☐ by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.

☐ by transmitting via email to the parties at the email addresses listed below:

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Attorneys for Plaintiffs
Ramon Gutierrez and Clariza Gutierrez

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on June 13, 2011, at Los Angeles, California.


Candice A. Spoon